

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

)	
Proceeding by the Department of Telecommunications)	
And Energy on its Own Motion to Implement)	
The Requirements of the Federal Communications)	
Commission's Triennial Review Order Regarding)	D.T.E. 03-59
Switching for Large Business Customers)	
Served by High-Capacity Loops)	
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)	

STATEMENT OF ALLEGIANCE TELECOM

Allegiance Telecom, Inc. ("Allegiance"), through its attorneys, submits this statement in response to the Department's Notice of Investigation ("Notice") issued July 31, 2003 in the above-captioned matter.

Allegiance is a national facilities-based integrated communications provider that offers a competitive, one-stop-shopping package of telecommunications services, including local, long distance and Internet services to business, government and other institutional customers in 36 major metropolitan areas across the United States. In Massachusetts, Allegiance provides service in the Boston market through its local operating subsidiary Allegiance Telecom of Massachusetts, Inc. Allegiance, on a nationwide basis, in states in which it operates, provides upwards of 9% of all CLEC

lines utilizing UNE loops and Allegiance Telecom of Massachusetts, Inc. provides approximately 20% of all CLEC lines provisioned over UNE loops in Massachusetts¹.

Allegiance does not request that the Department open a 90-day proceeding nor do we suggest that the Department rebut the FCC's presumption regarding impairment in the DS1 enterprise customer market². However, if a proceeding is requested by other parties, Allegiance requests that the Department include within that proceeding a review of Verizon's performance in providing unbundled high capacity loops to CLECs using their own switches to serve enterprise customers.

Verizon, in Massachusetts and in other states, has a history of improperly refusing to provide UNE DS1 loops on the grounds that it does not have facilities available to provide such loops. The FCC has made clear in the TRO that nearly all the excuses given by Verizon in refusing to provide UNE DS1 loops are improper and that such behavior constitutes impermissible discrimination against CLECs. For example, in the first six months of 2003, Verizon Massachusetts rejected 24 DS1 orders (affecting approximately 400 DS0 lines) for "no repeater shelf in CO, RT or Customer Location". The *TRO* explicitly finds this type of rejection to be unlawful. As the Commission stated, "incumbent LECs are able to provide routine modifications to their customers with relatively low expense and minimal delays, [therefore,] requesting carriers are entitled to the same attachment of electronics."³ Indeed, if Verizon were permitted to continue its

¹ Calculated using Allegiance lines in service as of June 2003 and the FCC Report on Local Telephone Competition as of December 31, 2002 (released June 12, 2003)

² The FCC has defined DS1 enterprise customers for the impairment analysis as "customers for which it is economically feasible for a competing carrier to provide voice grade service with its own switch using a DS1 or above loop." TRO at fn. 1296.

³ *TRO* at paragraph 639.

discriminatory behavior, it would call into question the FCC's finding of non-impairment in the DS1 enterprise customer market.

Accordingly, in order to ensure that Verizon comports its behavior with the requirements of the Telecommunications Act of 1996 and the *TRO*, Allegiance requests that any finding by the Department upholding the FCC's presumption of non-impairment regarding unbundled switching for enterprise customers be explicitly conditioned on the incumbent carrier's demonstrated adherence to the FCC rules requiring the incumbent local exchange carrier to provide parity provisioning of UNE DS1 loops.

Respectfully submitted,

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